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10/568,296	02/14/2006	Mikka Huomo	P2647US00	3516
36671 7590 08/05/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER				
YOO, JASSON H				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

Office Action Summary

Application No.

10/568,296

Applicant(s)

HUOMO, MIikka

Examiner

Jasson H. Yoo

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-16 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-10, 21-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-10, 21-26 incorporates the claim limitation of, "with the at least one processor, cause the apparatus to perform at least the following, associate each one of a plurality of device configurations based, at least in part, on one or more capabilities of a device, with a respective game configuration." Applicant's specification fails to disclose how the processor associate a device configuration with a game configuration based on the capabilities of a device. According to Applicant's arguments filed 5/7/10 page 10, the capability of a device is a real world capability. Applicant's invention fails to disclose how a processor can determine what the real world capability of a device is and then associate it with a game configuration. For example, the processor does not determine that an object is a flash light, and associates a game configuration according the determination that the object is a flash light. The object comprises a storage device that provides the processor information on what the respective game configuration is. A game designer determines what type of information should be stored on a particular game object. For the purpose of this examination, it will be interpreted that the

capabilities of a device, are capabilities that was programmed, or information stored onto the device.

Furthermore, Applicant specification discloses both game configuration and device configurations are used to change game parameters (paragraphs 26, 30, 32, 37-39, 46-53). However, the specification does not clearly define the terms "device configuration" and "game configuration" or describe how the two terms are different. Paragraph 36 states that the set of game parameters associated with a physical device configuration may be referred to as a game configuration. Thus it appears that the terms "device configuration" and "game configuration" both refer to data that modifies a game according to game parameters. Therefore it is not clear how the data structure associates a plurality of device configurations with a respective game configuration if the device configuration is a game configuration. It will be assumed that "device configuration" is data stored on an accessory device, the device configuration data modifying a game according to a game parameter, and "game configuration" is data stored in the gaming apparatus, the game configuration data modifying a game according to game parameters stored.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's specification fails to disclose that the apparatus is

further caused to update the device configuration. Applicant specification (paragraph 37 of Applicant's published specification), discloses that the game configuration associated with a particular device configuration is updated (paragraph 37 of Applicant's published specification).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatsuta (US 2002/0125318).

Claim 1. Tatsuta discloses **an apparatus (Fig. 1 and 40) comprising:**
at least one processor (CPU 302 in Fig. 1); and
at least one memory including computer program code for one or more programs (303, 304, 201, 202 in Fig. 1) configured to, with the at least one processor, cause the apparatus to perform at least the following,
associate each one of a plurality of device configurations based, at least in part, on one or more capabilities of a device, with a respective game configuration [Tatsuta discloses a plurality of device configurations to configure a game stored in a plurality of cards, the device configuration based on the capabilities

designed for the card and stored on the card's memory (400 in Figs. 1 and 40, paragraph 165).], **wherein each game configuration differently specifies one or more parameters of a game** (parameters including character, weapons, techniques, items, stats, capabilities, paragraphs 110, 165-174);

identify a current device configuration for the device (CPU 107 identifies the current device configuration for the device read from the code 401, and CPU 302 identifies the current device configuration for the device read from the memory 202. See paragraph 105);

determine a current game configuration associated with the current device configuration (CPU 302 determines a current game configuration according to an application program by reading the data and parameters stored in the RAM 202. See paragraphs 94, 174, 179); and

control the game by setting parameters in the game as specified by the current game configuration (CPU controls the game according the game program and the parameters of the game configuration. See paragraphs, 92, 94, 99, 174, 179).

Claim 2. Tatsuta discloses that **the game comprises gaming objects and the at least one game configuration specifies a parameter that creates a gaming object based, at least in part, on the one or more capabilities** (parameters to create weapons, protectors, magic are based on the capabilities of individual cards; paragraphs 166-168).

Claim 3. Tatsuta discloses that **the game comprises at least one user gaming object** (game character such as animal, person, monster; paragraphs 165-168) **and the created gaming object affects an attribute of the user gaming object** (weapons, protectors, magic are used by the game character; paragraphs 166-168, 174).

Claim 4. Tatsuta discloses that **the game comprises a gaming object** (weapons, protectors, magic are used by the game character; paragraphs 166-168) **a user gaming object** (game character such as animal, person, monster; paragraphs 165-168) **and the game configuration specifies a parameter that affects an attribute of the gaming object or an attribute of the user gaming object** (affects, character's attributes such as techniques, strength, power, hit-point, and offensive and defensive capabilities as disclosed in paragraphs 166-168, or gaming item objects such as items, weapons, protectors magical power or hidden power as disclosed in paragraphs 167-168, 174).

Claim 5. Tatsuta discloses that **that apparatus is further cause to:**
receive selection input; and select a sub-set of parameters specified in the current game configuration for use as parameters in the game (Using the operating section 305 in Figs. 1 and 40 to play the game, parameters of power data/items may be selectively used. See paragraphs 167, 174).

Claim 6. Tatsuta discloses **the apparatus is further caused to update the device configurations** (This is interpreted that the type of device configurations used for the game can be updated. Memory, 202, to store game data that can be modified by the processor 302 for different game configuration, paragraphs 92, 105, 174, 179)

Claim 7. Tatsuta discloses **the apparatus is further caused to: control the game by setting parameters in the game as specified by one or more previous game configurations** (Tatsuta discloses the modified parameters are used when they are selected. For example, user can select the parameters of a weapon, magical technique, etc. See paragraph 174. Therefore the CPU controls the previous parameters to be used until the new parameters are selected. For example, a character with no weapon or an old weapon is used until the new weapon is selected. Furthermore, if the previous game configurations are obtained from a card, the CPU can control the game with parameters specified by previous game configuration but load data from the previous card.).

Claim 8. Tatsuta discloses **the apparatus is further caused to temporarily control the game by setting parameters in the game as specified by a virtual game configuration associated with a virtual device configuration selected by the user** (Game program is executed by the CPU 302 as disclosed in paragraphs 92 and 94. Virtual game items and powers controlled according to the game program by the CPU can be used temporarily for a predetermined period of time. See paragraph 67.).

Claim 9. Tatsuta discloses that **controlling of the game includes set parameters in the game as specified by the current game configuration at the instantiation of the game** (As discussed above, the game controlled by the CPU by executing the game program. The game parameters can be a game character as disclosed in paragraph 166 and 168. Thus the game parameters are set at the instantiation--or at the start of the game play using a character specified by the game parameters.).

Claim 10. Tatsuta discloses that **the apparatus set at the instantiation of the game are variable while the game is played** (This limitation is interpreted that game parameters can change for a game session as suggested in paragraphs 25 and 37 of Applicant's specification. Tatsuta discloses that there a plurality of different game configuration with different game parameters. See paragraphs 165 and 170. Thus variable game parameters are set at the instantiation of the game when a different game configuration is used for a game session.).

Claim 21. Tatsuta discloses **the one or more capabilities of the devices are based, at list in part, on one or more accessory devices** (The cards 400 are considered to be accessory devices. For instance they may be collected, see paragraph 165. Thus the capabilities are based on the information stored on the card accessory.).

Claims 22-23. Tatsuta discloses **the apparatus is further caused to: detect an accessory device; and modify the current device configuration/game object, based, at least in part on the detections** (as indicated in claims 1-2, 21, any of the card accessories can be used to modify the current device configuration and the game object).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsuta (US 2002/0125318) as evidenced by applicant's specification, or evidenced by Bloomfield (US 2002/0028704).

Claim 24. Tatsuta discloses the claimed invention and that the accessory device is a card (400 in Figs. 1 and 40). However Tatsuta fails to disclose that the accessory device includes a camera, a headset, a pen input device, a light (interpreted as flash light), or a combination thereof. Nevertheless, the specific type of accessory device used is a design choice. The specific type of accessory device used does not change how the game is played. It is a design choice of what type of accessory device should

be used to store a particular data. A game designer can decide to store game configuration on any device that can store game data. For instance, game data can be embedded or stored onto any physical device such as a piece of paper, a rock, an article of clothing or any toy or toy accessory. Furthermore, Applicant's specification discloses that the accessory may be a camera, headset, pen, amulet, necklace, bracelet, ring, etc (paragraphs 31-32 of Applicant's). published specification and that the accessory may resemble the game data. Thus the specific choice of using a camera, a headset, a pen, or a light, is a design choice in which a specific type of game data is stored onto an object with a design that represents the game data. Furthermore, as further evidence, in a similar invention Bloomfield discloses storing game configuration stored on fob device (paragraphs 102-103). Bloomfield discloses that the shape of the device that stores game data is not essential. For instance, similarly to Applicant's disclosed invention, the device may be an item such as a bracelet (paragraph 144 of Bloomfield).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsuta (US 2002/0125318) in view of Dark Age of Camelot Shines by Royce Brainard (website game review article, 6/30/2004 edition) (hereinafter "Dark Age").

Claim 25. Tatsuta discloses the claimed invention as discussed above. Tatsuta also discloses that the apparatus detects a model of the device (The model or type of game data stored is detected by reading the game data, paragraph 174.). However,

Tatsuta fails to disclose that the apparatus determine that a new model of the device is available; and decrease an attribute of the gaming object based, at least in part, on the determination. Nevertheless it is well known in the art to decrease an attribute of gaming objects base on the determination if the game feature is new. As weapons and armor are used over time, the weapons and armor degrade in order to provide realism in a video game. This requires the items to be fixed or replaced with new items. For instance, Dark Age is a video game comprising plurality of game objects such as weapons and armor. Dark Age discloses that weapons and armor decay over time and with use (page 3 paragraph 11). Therefore the weapon or armour decreases in attribute as the game determines that the current weapon is old. This is equivalent as determine that a new model of the item is available (As indicated in Applicant's specification paragraph 37, game configuration will be deflated over time). Therefore it would have been obvious to one of ordinary skilled in the art to modify Tatsuta and decrease the attribute of the gaming object based on detecting the model of the device and determining a new model is available, in order to provide realism to Tatsuta's game.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsuta (US 2002/0125318) as applied to claim 26 above, and further as supported by Applicant's specification, or in view of Bloomfield (US 2002/0028704).

Claim 26. Tatsuta discloses that according to an update message received from a interface (CPU 107 identifies receives the update message to update the device configuration according to the game parameter read from the code 401.). As discussed above in claim 25, Dark Age discloses that the game determines that a new model is available according to the message (according to the game parameter or current game item). However, Tatsuta fails to disclose that the game message is received via a wireless interface. Nevertheless such modifications would have been obvious to one of ordinary skilled in the art. Tatsuta's invention is directed to changing game parameters by reading game data stored on a card via optically reading a code (paragraph 84). However, it is well known in the art to use other means of means of transmitting and reading data. For instance, Applicant's specification discloses that any type of interface can be used (i.e. Bluetooth, infrared, GSM, WLAN, USB; paragraph 23). Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made, to modify Tatsuta's invention and receive data using a wireless interface, since Applicant's specification, suggest that any suitable type of interface can be used. Furthermore, in an analogous art to reading game data, Bloomfield discloses storing game configuration stored on fob device (paragraphs 102-103) and transmitted to a gaming device wirelessly (paragraph 145). Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made, to modify Tatsuta's invention and receive data using a wireless interface, since Bloomfield discloses that it is known to wirelessly transmit game data from a storage device to a game apparatus.

Response to Arguments

Applicant's arguments with respect to claims 1-10, 21-26 have been considered but are moot in view of the new ground(s) of rejection. Regarding claims 1-10, new grounds of rejection using the same art have been made to address the amended limitations. Furthermore, new 35 USC 112 rejections have been made to address the amended limitations.

Regarding claims 1-10 rejected under 35 USC 102b as anticipated by Tatsuta.

Applicant argues that Tatsuta fails to teach the claim limitation of "associate each one of a plurality of device configurations base, at least in part on one or more capabilities of a devices, with a respective game configuration. However, as indicated in the rejection above, Tatsuta discloses a plurality of device configurations to configure a game stored in a plurality of cards. The device configuration is based on the capabilities designed for the card and stored on the card's memory (400 in Figs. 1 and 40, paragraph 165). Applicant further elaborates on the capabilities include a camera, a flashlight, vibration maker, etc. However, such limitations are not claimed. The claim that closely represents this limitation is claim 24 (not claims 1-10). Furthermore, the examples provided in the specification and Applicant's arguments, "camera, a flashlight, a vibration maker, etc" are lists of devices. They are not capabilities. There can be infinite capabilities for these devices. For instance, a flash light can be used to light room, used as headlights for a bicycle, used as a paperweight, or used as a weapon. Applicant further adds that the storage medium have no correlation between the world

capabilities. However, as discussed above, Applicant fails to claim that there is a correlation between the real world capabilities of a device and a game, and what the correlation is. Even claim 24, fails to claim that the device has a correlation between the real world capabilities of a device and a game, and what the correlation is. As discussed above, claim 24 is directed to what the device is. The specific type of device used has been addressed in the rejection above (see rejection for claim 24 above).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Siegel (US 2003/0134679) discloses claims 1-10, 21-23. Siegel discloses that character data obtained from an external device is used for game configuration that specifies one or more parameters of the game. The parameters may include different characters, attributes, and items (see abstract).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY
/David L Lewis/
Supervisory Patent Examiner, Art Unit 3714

